IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 23RD JULY 2007 / 1ST SRAVANA 1929

Crl.MC.No. 2344 of 2007()

CC.734/2006 of JUDL.MAGISTRATE OF FIRST CLASS-I, HOSDRUG
CRIME NO.95/06 OF CHANDERA POLICE STATION

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PETITIONER: ACCUSED NOS.1 & 2

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1. VIJAYAN KANA,
   S/O NARAYANAPODUVAL, RESIDING AT AMMINHAKKODE,
   CHEEMENI VILLAGE.

2. BHASKARAN KANA,
   S/O NARAYANA PODUVAL,
   RESIDING AT AMMINHAKKODE,
   CHEEMENI VILLAGE.

BY ADV. SMT.T.SUDHAMANI

RESPONDENTS: COMPLAINANT

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1. THE STATE OF KERALA REP.BY
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

2. THANKAMANI.K.,
   S/O CHENANKRISHNAN NAIR,
   KODAKKADAM HOUSE, KIZHAKKEKARA,
   CHEEMENI VILLAGE.

R2 BY ADV. SRI.T.MADHU
PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.2344 of 2007

Dated this the 23rd day of July, 2007

O R D E R

The petitioners are the husband and brother in law of the defacto complainant, ie. the 2nd respondent herein. On the basis of the allegations raised by the 2nd respondent, a crime was registered. Investigation was completed and final report has been filed by the police. Cognizance has already been taken by the learned Magistrate. The case is now pending as C.C.No.734 of 2006 before the Judicial Magistrate of the First Class-I, Hosdurg.

2. The petitioners and the defacto complainant have now come to this Court to apprise this Court that the disputes between them have been settled and the defacto complainant has compounded the offence under Section 498 A I.P.C raised against the petitioners. Consequent to harmonious settlement of the disputes between them, the 1st petitioner husband and the defacto complainant/2nd respondent are residing together now. The continuance of this prosecution has become unnecessary irritant in the relationship between the spouses. It is, in these circumstances, prayed that the proceedings may be quashed invoking the powers under Section 482 Cr.P.C. The learned counsel for the 2nd respondent Sri.T.Madhu, submits before the Court that as a matter of fact, the parties have resumed co-habitation and

are residing harmoniously and happily now. I accept the said statement of the learned counsel for the 2nd respondent made personally at the Bar and do not insist on any further joint statement by the parties. I am satisfied, from the averments in the complaint and from the statements made by the counsel at the Bar, that the parties have willingly and voluntarily settled their disputes and the defacto complainant/2nd respondent has compounded the offence allegedly committed by the petitioners. If legally permissible, I am satisfied that the composition can be accepted and further proceedings can be dropped.

3. But the offence under Section 498 A I.P.C is not legally compoundable. The counsel, in these circumstances, rightly rely on the decision of the Supreme Court in **B.S.Joshy v. State of Haryana** [A.I.R (2003) SC 1386]. That decision is authority for the proposition that the interests of justice may at times transcend the interests of mere law and in such circumstances, the stipulation of Section 320 Cr.P.C cannot be held to fetter the width, sweep and amplitude of the powers of this Court under Section 482 Cr.P.C to act in aid of justice. I am, in these circumstances, satisfied that this is an eminently fit case, where such powers under Section 482 Cr.P.C as explained in **B.S.Joshy v. State of Haryana** [A.I.R (2003) SC 1386] ought to be and deserve to be invoked.

In the result, this Crl.M.C is allowed. C.C.No.734 of 2006 pending before the Judicial Magistrate of the First Class - I, Hosdurg is hereby quashed.

(R.BASANT, JUDGE)

rtr/-